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SAVE OUR FOREST ASSOCIATION, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION – RIVERSIDE**

BLUETRITON BRANDS, INC.,

Case No.: 2:24-cv-09720-JGB-DTB

Plaintiff,

DECLARATION OF GARY EARNEY

vs.
UNITED STATES FOREST SERVICE, *et al.*,

Date: January 13, 2025

Time: 9:00 a.m.

Courtroom: 1

Judge: Hon. Jesus G. Bernal

Action Filed: August 6, 2024

I, Gary Earney, do declare and state:

1. If sworn as a witness, I could and would testify to my personal knowledge of the facts set forth herein.

2. I am Gary Earney, a retired professional forester with the USDA Forest Service. I worked on the San Bernardino National Forest from January 1978 until my retirement there in May 2007. Among my credentials was a certification as a Paraprofessional Archaeologist, and as such I formally conducted and reported on archaeological field survey results, and thereafter

1 administered any needed mitigation on field projects where archaeological resources were
2 identified.

3 3. From 1982 until 2007 I administered the Special Uses Permit for the water
4 withdrawals from upper Strawberry Creek headwaters which included all wells, springs, pipelines
5 etc., from the headwaters down to the Forest Boundary near Arrowhead Springs Resort and
6 Coldwater Creek/Canyon. I have walked the entire area of the water withdrawal improvements on
7 National Forest land many times over the years. In my professional opinion, the archaeological
8 sensitivity of the area from the upper headwaters of the West Fork of Strawberry Creek down to
9 that Forest Boundary is extremely low to non-existent.

10 4. I would estimate visiting the area for 12 to 15 times over 25 years, on an
11 unscheduled basis as the need arose to administer the Nestle permit or other permits in that area
12 like a gas pipeline. Those visits would have occupied most of a day. The visits would have been
13 closer together from the mid-1990s on as Nestle asked to drill additional wells, and repairs were
14 made due to storm and fire damage. During those visits I would have been assessing riparian
15 health and vigor, water infrastructure impacts from leaks and repairs, recovery from past winter
16 storm damage or impacts from recent fires, etc. Such work involved fairly intense observations
17 and attention to detail to be effective, thus the long days doing that work.

18 5. Cultural resource presence is unlikely, from the headwaters down to the Forest
19 property line at Arrowhead Springs Resort/Coldwater Canyon due to the steep terrain on both
20 sides of the creek, thick and almost impassable vegetation on the hillsides on both sides of the
21 creek, and the dynamic nature of the stream flows during heavy rain/snow melt events that I
22 personally saw be intense enough to lower the stream bottom by a good 10 feet in one afternoon--
23 removing trees at the same time. Isolated hunting, fishing and gathering would have been
24

1 conducted along the actual stream bottom, but camps would have been restricted to milder terrain
2 down around the hot springs areas of the Resort, off Forest. The creek flushed almost annually
3 from winter rains, which would have removed/destroyed isolated artifacts or evidence of human
4 use/habitation along the creek bottom, which would have been highly unlikely anyway due to the
5 aforementioned reasons.

6
7 I make this declaration under penalty of perjury under the laws of the United States of
8 America, executed this 10th day of January, 2025, in Redlands, California.

9 By: */s/ Gary Earney*

10 **GARY EARNEY**

11
12 In lieu of a signature, I attest that I obtained approval, on January 10, 2025, from Gary
13 Earney for the filing of this declaration.

14 */s/ Rachel Doughty*